

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CIVIL NO. 1:08CV9  
(1:04CR43)**

<b>ANGELA NAOMI HOWELL,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>Vs.</b>	)	<b><u>ORDER</u></b>
	)	
<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Respondent.</b>	)	
_____	)	

**THIS MATTER** is before the Court on Petitioner's rebuttal and response to the Respondent's motion for summary judgment filed herein.

The Petitioner filed her responses before the Court had an opportunity to advise her in accordance with *Roseboro v. Garrison*, 528 F.2d 309 (4<sup>th</sup> Cir. 1975). Out of an abundance of caution, the Court will do so now in the event the Petitioner wishes to amend her responses or provide additional evidence to comply with the requirements of Rule 56.

The Petitioner, who is proceeding *pro se*, is cautioned that she carries a heavy burden in responding to a motion for summary judgment. Rule 56(e) of the Federal Rules of Civil Procedure provides:

When a motion for summary judgment is properly made and supported, an opposing party may not rely merely on allegations or denials in its own pleading; rather, its response must – by affidavits or as otherwise provided in this rule – set out specific facts showing a genuine issue for trial. If the opposing party does not so respond, summary judgment should, if appropriate, be entered against that party.

**Fed. R. Civ. P. 56(e)(2).** This language means that if the Petitioner has any evidence to offer to show that there is a genuine issue for trial, she must now present it to the Court in a form which would otherwise be admissible at trial, that is, in the form of affidavits or unsworn declarations. An affidavit is a written statement under oath; in other words, a statement prepared in writing and sworn before a notary public. An unsworn statement, made and signed under the penalty of perjury, may also be submitted. Affidavits or statements must be presented by the Petitioner to this Court within 30 days from the date of this Order.

**IT IS, THEREFORE, ORDERED** that the Petitioner is allowed 30 days from the date this Order is filed within which to file additional responses, in accordance with the provisions of Fed. R. Civ. P. 56(e), to Respondent's motion for summary judgment.

Signed: May 15, 2008

A handwritten signature in dark ink, appearing to read "Lacy H. Thornburg", is written over a horizontal line.

Lacy H. Thornburg  
United States District Judge

